

CHAPTER 51 IOWA CODE OF JUDICIAL CONDUCT

CANON 1

A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this code should be construed and applied to further that objective. [Court Order November 9, 2001, effective February 15, 2002]

CANON 2

A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES

- A. A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- B. A judge should not allow family, social, or other relationships to influence judicial conduct or judgment. A judge should not lend the prestige of the office to advance the private interests of others; nor should a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.
- C. A judge shall not hold membership in any organization that the judge knows practices invidious discrimination on the basis of race, sex, religion or national origin. [Amended Court Order July 7, 1994, effective September 1, 1994; November 9, 2001, effective February 15, 2002]

CANON 3

A JUDGE SHOULD PERFORM THE DUTIES OF OFFICE IMPARTIALLY AND DILIGENTLY

The judicial duties of a judge take precedence over all other activities. Judicial duties include all the duties of the office prescribed by law. In the performance of these duties, the following standards apply:

A. *Adjudicative Responsibilities.*

- (1) A judge should be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public clamor, or fear of criticism.
- (2) A judge should maintain order and decorum in all proceedings.
- (3) A judge should be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers,

and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of court staff, court officials, and others subject to the judge's direction and control.

- (4) A judge should accord to every person who is legally interested in a proceeding, or that person's lawyer, full right to be heard according to law, and except as authorized by law, neither initiate nor consider *ex parte* or other communications concerning a pending or impending proceeding. A judge, however, may obtain the advice of a disinterested expert on the law applicable to a proceeding before that judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.
- (5) A judge should dispose promptly of the business of the court.
- (6) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to the judge's direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.
- (7) Subject at all times to the authority of the presiding judge to control the conduct of proceedings before the court to ensure decorum and prevent distractions and to ensure the fair administration of justice in the pending cause, electronic media and still photography coverage of public judicial proceedings in the trial and appellate courts of this state shall be allowed in accordance with the Rules for Expanded Media Coverage found in chapter 25 of the Iowa Court Rules.
- (8) A judge shall not in the performance of judicial duties by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon sex, race, national origin, or ethnicity, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.
- (9) A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon sex, race, national origin, or ethnicity, against parties, witnesses, counsel or others. This section does not preclude legitimate advocacy when sex, race, national origin or ethnicity are issues in the proceeding.

- (10) A judge shall not, with respect to cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

B. *Administrative Responsibilities.*

- (1) A judge should diligently discharge administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.
- (2) A judge should require court staff and court officials subject to the court's direction and control to observe the same applicable standards of fidelity and diligence that apply to a judge.
- (3) A judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware.
- (4) A judge should not make unnecessary appointments. A judge should exercise the power of appointment only on the basis of merit, avoiding nepotism and favoritism. A judge should not approve compensation of appointees beyond the fair value of services rendered.

C. *Disqualification.*

- (1) A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following instances:
 - a. The judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
 - b. The judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning the matter;
 - c. The judge knows that the judge, individually or as a fiduciary, or the judge's spouse or minor child residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
 - d. The judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person, is any of the following:

- i. A party to the proceeding, or an officer, director, or trustee of a party;
 - ii. Acting as a lawyer in the proceeding;
 - iii. Known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or
 - iv. To the judge's knowledge likely to be a material witness in the proceeding.
 - e. The judge, while seeking appointment for a judicial vacancy or serving as a judge, has made a public statement, other than in a prior judicial decision or opinion, that commits, or appears to commit, the judge to reach a particular result with respect to an issue in the proceeding or a controversy in the proceeding.
- (2) A judge should inform himself or herself about any personal and fiduciary financial interests, and make a reasonable effort to be informed about the personal financial interests of the judge's spouse and minor children residing in the judge's household.
 - (3) For the purposes of this section:
 - a. The degree of relationship is calculated according to the civil law system;
 - b. "Fiduciary" includes such relationships as executor, administrator, trustee, and guardian;
 - c. "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:
 - i. Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;
 - ii. An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;
 - iii. The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;
 - iv. Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

- D. *Remittal of Disqualification.* A judge disqualified by the terms of Canon 3(C)(1)(c) or Canon 3(C)(1)(d) may, instead of withdrawing from the proceeding, disclose on the record the basis of the disqualification. If, based on such disclosure, the parties and lawyers, independently of the judge's participation, all agree in writing that the judge's relationship is immaterial or that the judge's financial interest is insubstantial, the judge is no longer disqualified, and may participate in the proceeding. The agreement, signed by all parties and lawyers, shall be incorporated in the record of the proceeding. [Amended Court Order July 19, 1989, effective September 1, 1989; November 9, 2001, effective February 15, 2002; May 31, 2006]

CANON 4

A JUDGE MAY ENGAGE IN ACTIVITIES TO IMPROVE THE LAW, THE LEGAL SYSTEM, AND THE ADMINISTRATION OF JUSTICE

A judge, subject to the proper performance of judicial duties, may engage in the following quasi-judicial activities, if in doing so the judge does not cast doubt on the judge's capacity to decide impartially any issue that may come before the judge:

- A. A judge may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.
- B. A judge may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.
- C. A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities. A judge may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice. [Court Order November 9, 2001, effective February 15, 2002]

CANON 5

A JUDGE SHOULD REGULATE EXTRA-JUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL DUTIES

- A. *Avocational Activities.* A judge may write, lecture, teach, and speak on nonlegal subjects, and engage

in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of office or interfere with the performance of judicial duties.

- B. *Civic and Charitable Activities.* A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of judicial duties. A judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

- (1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.
- (2) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of office for that purpose, but may be listed as an officer, director, or trustee of such an organization. A judge should not be a speaker or the guest of honor at an organization's fund raising events, but may attend such events.
- (3) A judge should not give investment advice to such an organization, but may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

- C. *Financial Activities.*

- (1) A judge should refrain from financial and business dealings that tend to reflect adversely on impartiality, interfere with the proper performance of judicial duties, exploit the judge's judicial position, or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge serves.
- (2) Subject to the requirements of Canon 5(C)(1), a judge may hold and manage investments, including real estate, and engage in other remunerative activity, but should not serve as an officer, director, manager, advisor, or employee of any business.
- (3) A judge should manage investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, investments and other financial interests that might require frequent disqualification should be divested.

(4) A judge should not accept or solicit a gift, bequest, favor or loan from anyone if the conduct is prohibited by Iowa Ct. R. 22.22. In addition, neither a judge nor a member of the judge's family should accept a gift, bequest, favor, or loan from anyone except as follows:

- a. A judge may accept a gift incident to a public testimonial to the judge; books supplied by publishers on a complimentary basis for official use; or an invitation to the judge and the judge's spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;
- b. A judge or a member of the judge's family may accept ordinary social hospitality; a gift, bequest, favor, or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;
- c. A judge or a member of the judge's family may accept any other gift, bequest, favor, or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge, and, if its value exceeds \$100, the judge reports it in the statement of personal disclosure required by Iowa Ct. R. 22.26;
- d. For the purposes of Canon 5(C), "member of the judge's family" means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge's family, who resides in the judge's household.

(5) A judge is not required by this code to disclose the judge's income, debts, investments, or other financial interests, except as provided in Canon 3 and Iowa Ct. R. 22.26.

(6) Information acquired by a judge in the judge's judicial capacity should not be used or disclosed by the judge in financial dealings or for any other purpose not related to the judge's official duties.

D. *Fiduciary Activities.* A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties. "Member of the judge's family" includes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. As a family fiduciary a judge is subject to the following restrictions:

(1) A judge should not serve if it is likely that as a fiduciary the judge will be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.

(2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to the judge in a personal capacity.

E. *Arbitration.* A judge should not act as an arbitrator or mediator.

F. *Practice of Law.* A judge should not practice law after assuming judicial duties. *See* Iowa Ct. R. 22.11. [Amended Court Order April 29, 1980]

G. *Extra-judicial Appointments.* A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge, however, may represent country, state, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities. [Court Order November 9, 2001, effective February 15, 2002]

CANON 6

COMPENSATION RECEIVED FOR QUASI-JUDICIAL AND EXTRAJUDICIAL ACTIVITIES

A judge may receive compensation and reimbursement of expenses for the quasi-judicial and extrajudicial activities permitted by this code, if the source of such payments does not give the appearance of influencing the judge in the judge's judicial duties or otherwise give the appearance of impropriety and the compensation is not prohibited by Iowa Ct. Rs. 22.24 and 22.25. [Court Order November 9, 2001, effective February 15, 2002]

CANON 7

A JUDGE SHOULD REFRAIN FROM POLITICAL ACTIVITY INAPPROPRIATE TO THE JUDICIAL OFFICE

A. *Political Conduct in General.*

(1) A judge should not:

- a. Act as a leader or hold any office in a political organization;
- b. Make speeches for a political organization or candidate or publicly endorse a candidate for public office;
- c. Solicit funds for or pay an assessment or make a contribution to a political organization or candidate, attend political gatherings, or purchase tickets for political party dinners, or other functions.

- (2) A judge should resign from office when becoming a candidate either in a party primary or in a general election for a nonjudicial office, except that a judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention, if otherwise permitted by law to do so.
- (3) A judge should not engage in any political activity except on behalf of measures to improve the law, the legal system, or the administration of justice except as provided in Canon 7(B). [Amended Court Order March 21, 1988, effective May 2, 1988]
- B. *Campaign Conduct.*
 - (1) A judge who is a candidate for retention in judicial office:
 - a. Should maintain the dignity appropriate to judicial office, and should encourage family members to adhere to the same standards of political conduct that apply to judges;
 - b. Should prohibit public officials or employees subject to the judge's direction or control from doing for the judge that which is prohibited under this Canon; and except to the extent authorized under Canon 7(B)(2), the judge should not allow any other person to do for the judge that which is prohibited under this Canon;
 - c. Should not misrepresent the judge's identity, qualifications, present position, or other fact;
 - d. Should not make any statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court;
 - e. Should not, with respect to cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office.
 - (2) A judge who is a candidate for retention in office without a competing candidate, and whose candidacy has drawn active opposition, may campaign in response thereto and may establish committees of responsible persons to obtain publicly stated support and campaign funds. [Amended Court Order March 21, 1988, effective May 2, 1988; November 9, 2001, effective February 15, 2002; May 31, 2006]

COMPLIANCE WITH THE CODE OF JUDICIAL CONDUCT

Anyone, whether or not a lawyer, who is an officer of a judicial system performing judicial functions, including an associate juvenile judge, hospitalization or probate referee, special master, or magistrate, is a judge for the purpose of this code. All judges should comply with this code except as provided below.

- A. *Part-time Judge.* A part-time judge is a judge who serves on a continuing or periodic basis, but is permitted by law to devote time to some other profession or occupation and whose compensation for that reason is less than that of a full-time judge. A part-time judge:
 - (1) Is not required to comply with Canon 5(C)(2), (D), (E), (F), and (G).
 - (2) Shall not practice law in the court on which the judge serves.
 - (3) Shall not practice law before another magistrate or represent a client seeking appellate review of a magistrate's decision. [Amended Court Order December 19, 1979; June 28, 1985, effective July 1, 1985; March 21, 1988, effective May 2, 1988; December 29, 1992, effective January 1, 1993]
- B. *Permitted Practices.* When it would not otherwise be prohibited by the Iowa Rules of Professional Conduct, a magistrate may appear as counsel for a client in a matter that is within the jurisdiction of a magistrate so long as the matter is heard by a district judge or a district associate judge.* Partners or associates of a magistrate may appear before a magistrate other than their partner or associate. [Court Order March 21, 1988, effective May 2, 1988; April 20, 2005, effective July 1, 2005]
- C. *Senior or Retired Judge.*
 - (1) A senior judge, a retired judge, or a retired senior judge who has been assigned to temporary judicial duties pursuant to section 602.1612 shall comply with all the provisions of this code except Canons 5(E) and 5(G), but shall not act as an arbitrator, mediator, or provider of other forms of alternate dispute resolution or hold an extra-judicial appointment prohibited by Canon 5(G) while assigned to judicial service or when such action or appointment will interfere with an assignment to judicial service. A senior judge or a retired judge shall not use the title "senior judge" or the title "judge" in any form while acting as an arbitrator or mediator.
 - (2) A senior judge shall disclose to the parties if the senior judge has mediated a dispute involving any party or any party's insurer, lawyer, or law firm involved in a case before the senior judge, and any negotiations or agreements for the provision of mediation services between the senior judge and any party or any party's insurer, lawyer, or law firm to a case before the senior judge. A senior judge shall not preside over any case involving a party or a party's in-

suror, lawyer, or law firm that is using or negotiating to use the senior judge as a mediator, or has used or agreed to use the senior judge as a mediator in the past two years. A senior judge shall not serve as a mediator in any case in which the judge is currently presiding. A senior judge shall not mediate any dispute that is filed in or could be venued or filed in the judicial district or appellate court in which the judge serves. These restrictions cannot be waived by consent of the parties or lawyers. For purposes of this section, mediation includes arbitration, other forms of alternate dispute resolution or an extra-judicial appointment. [Amended Court Order December 19, 1979; April 24, 1981; March 21, 1988, effective May 2, 1988; November 9, 2001, effective February 15, 2002; October 31, 2008, effective January 1, 2009]

*See Iowa Code §602.1605

EFFECTIVE DATE OF COMPLIANCE

A person to whom this code becomes applicable should arrange that person's affairs as soon as reasonably possible to comply with it. If, however, the demands of time and the possibility of conflicts of interest are not substantial, a person who holds judicial office on the date this code becomes effective may:

- A. Continue to act as an officer, director, or nonlegal advisor of a family business;
- B. Continue to act as an executor, administrator, trustee, or other fiduciary for the estate or person of one who is not a family member. [Amended Court Order March 21, 1988, effective May 2, 1988; November 9, 2001, effective February 15, 2002]